

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HERMAN RODRIQUEZ,
NEWTON JAMES SMITH, JR. and CLIFFORD JAY SPINAC

MAILED

MAY 02 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application 09/838,365

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Information Disclosure Statement (IDS) was filed October 21, 2005. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set

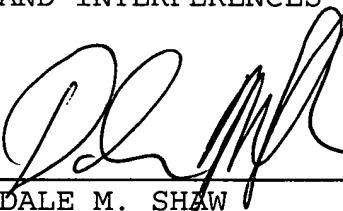
forth in 37 CFR §§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner for consideration of the IDS, appropriate notification to appellants, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


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